



Connecticut Department of Environmental Protection  
Release Reporting Advisory Committee  
February 13, 2008  
**Summary of Meeting Notes**

Co-Chair Mark DeCaprio and Carol Violette opened the meeting at approximately 9:35 am. The meeting was held in the Russell Hearing Room, 3<sup>rd</sup> Floor, DEP Hartford Headquarters.

**Agenda Item 1 – Opening Comments**

Co-Chair Mark DeCaprio and Carol Violette opened the meeting by thanking all members for their time on this important initiative.

Mark DeCaprio announced that work has begun looking at the spill incident tracking system data and the plan is to provide findings to the Historical workgroup.

**Agenda Item 2 - Multiple Reporting Requirements Model – One Reporting Mechanism**

*Todd Berman, Robinson & Cole. Todd Berman gave a presentation and provided a handout (plan to post on web soon)*

Members shared the following information:

- Multiple reporting requirements – one reporting mechanism confined to safety issues – public safety triage
- NU calls in 900 release/yr – conservative structure

Matt Williamson, DEP indicated

Will have stats for next workgroup meetings.

After hours calls to spills, but during day that goes directly to program people

Mark DeCaprio stated that he will have stats for next workgroup meetings. After hours calls go to spills however during the day spills goes directly to program staff.

**Agenda Item 3 - Comparison of Massachusetts Model to the 1994 DEP Draft Release Reporting Regulations**

*Paula Hamel – Note: PowerPoint presentation is available on DEP website.*

Discussion focused on Massachusetts Model and consideration for the Massachusetts Contingency Plan has most of the elements that appear attractive to the committee. It was recognized that there is a need to point to other existing reporting and remediation infrastructure aspects such as the RSRs and voluntary cleanup.

It was noted that the Massachusetts Reporting Requirements that appear to be an attractive model to work with. The Massachusetts model identifies those releases of oil and hazardous material that require notification, establish time periods and procedures for notifications, and clearly define provisions to allow limited removal of oil and hazardous material under certain circumstances.

- Many basic elements missing from 1994 regulations
- Massachusetts Contingency Plan (MCP) contains the most elements that are attractive CT. (Public vetted over 10-year period)
- As CT regulations are being amended, these requirements should explicitly reference other related release infrastructure in CT
- Noted that many helpful elements to include
  - Purpose, applicability
  - Key definitions
  - Timeframes for reporting
  - Extension of deadlines
  - Clearly defined role of DEP and other parties
  - Reporting criteria on both quantity and concentrations
  - Extensive scope of risk-based exceptions
  - Applicability to pre-existing conditions
  - Preliminary v comprehensive response actions
  - Concepts: who is responsible party, potential responsible party, utilities, downgradient property owner(s)
- **Massachusetts Key Definitions**
  - Release v threat of release
  - Environment
  - Background
  - Contain and containment
  - Discharge and disposal site
  - Hazardous waste and hazardous materials
  - Imminent hazard
- **Reportable Concentrations and Quantities**
  - Oil and hazardous materials list on web site
  - On line searchable list, alpha
  - List by CAS number
  - RQs generally apply to historical releases discovered
  - RQs generally refer to sudden, continuous or intermittent release of threat of release
- **Abbreviated Exceptions**
  - Oil facility completed captured by oil/water separator functioning properly
  - If not exceeding NPDES permit, not reportable
  - Sheens from normal subsurface residues
  - Sheens otherwise adequately regulated

- **Off Ramp Incidents**
  - Remediate to acceptable levels
  - Deed restriction
  - DEP can audit

The Massachusetts Model also calls for the appropriate level of Department oversight of response actions undertaken by responsible parties, potentially responsible parties and Other Persons. There are specific definitions for response action, remedial action, comprehensive remedial action and preliminary response action.

Also noted was as the CT Release Reporting requirements are being amended, these requirement should explicitly reference other related release infrastructure which already exist in CT such as RSRs, voluntary clean up program and may be others. It was noted that whatever amendments are proposed for CT spill reporting and ultimately adopted, pubic education is a vital piece.

#### **Agenda Item 4 - Workgroup Reports**

##### **Reporting Models Workgroup Status Report**

The Reporting Models Workgroup provided their conclusions of their workgroup. The Workgroup met their objective of recommending a model.

1. Massachusetts Contingency Plan (MCP) contains the most elements that are attractive
2. As the CT Release Reporting Requirements are being amended, these requirement should explicitly reference other related release infrastructure which already exists in CT such as RSRs, Voluntary cleanup programs and others
3. Massachusetts have key definitions
4. Reportable Concentrations and Reportable Quantities
5. Exemptions

The workgroup may work on exceptions such as Reportable Concentrations or Reportable Quantities. Also, look at the last three years of data from spills database to determine how many spills were reported as petroleum and were less than 10 gallons.

Lori Saliby stated that the Risk Assessment workgroup is continuing their research on exceptions. Workgroup does not support LSP requirement in the MCP. Peter Zack stated that CT does not have the infrastructure to incorporate/handle such activities

Mark DeCaprio indicated that DEP needs to start to write draft regulations starting with the 1994 regulations. Member's comments and questions included:

- Lots of editing;
- Some of 1994 draft regulations have become stale;
- May know what is to be reported, but need reasonable idea of what happens afterwards?
- The model presented by Todd refers to existing program. *(note: handout to be published on website soon)*

- Mark DeCaprio indicated there are approximately 8,000 incidents reported to the Department on a yearly basis. Of those 8,000, approximately 60% are considered some type of oil release. The DEP responds to approximately 20-30% of the 8,000 calls.

### **Historical Release Workgroup Status Report**

Todd Berman indicated that the first workgroup meeting was 10 days ago. Other items included

- population of unknown size, ex: does not trigger significant environmental hazard

#### **Comments**

- Doesn't speak to source of pollution – no extent and degree determination
- If everything beyond background is reported, damper on transfer. Buyer first asks what if we fund something we don't want to find.
- If covered by Transfer Act, ok - but if not it complicates property transaction- won't stop transaction but it will become more expensive.
- What difference does paperwork make? If condition exists, it has to be dealt with anyway.
- If not in statutory bucket, Connecticut law does not require cleanup. Example – pesticides If bring in historical cleanups, now we have to do something – that expensive.
- Be careful about bringing in population of sites, but no infrastructure at DEP to deal with it.
- 100's of sites come in to DEP in Transfer Act Program, only 20+ are verified.
- Don't assume today's systems. Roughly 200 transfer act forms each year, 20-30 out each year, but because getting done is a voluntary choice – open ended finish end
- Right - Many CO's choose to drag feet because they can but for re-transfers, incentive to get it done because makes transfer less complex
- If five spills on a site and reported and dealt with, there's that much less contamination to deal with at transfer
- If clean on & off ramps, and have low levels of contamination, gives lenders certainty to evaluate risk. It's the local businesses that suffer quantify risk and that will facilitate transactions.
- A lot of my daily routine is for non-business type properties. If LSP, how does that affect smaller individuals?
- Really does boil down to assigning dollar account for risk to address issue of lenders supplying \$. It was noted that 48 states reference historical release ...Georgia – no, Iowa – yes, NY – yes, Nebraska. What if called DEP? What answer?
- Definitions of HX release. Member came with list of DEP programs that deal with HX release.

### **Closure Workgroup Status Report - Peter Zack**

Double edged sword – needs professional judgment. Homeowner release based on limited sampling and data.

The question, “Does 22a-450 give authority to require cleanup to RSRs or define what closure is?” was asked.

- Need consistency on part of DEP regardless of location in state
- Way to carve out known, observed releases vs HX release.
- If use RSRs as benchmark, would clock be restated with spill?

### **Risk Assessment Workgroup – Lori Saliby**

The Risk Assessment workgroup is looking at the following sources of risk data:

- MCP
- 1994 draft regulations
- Petroleum issue
- Health Department and draft publication (some members of Committee are from DOH)
- Good place to start – 3-tiered system
  1. Default quantity unless exception
  2. Two tiers of exceptions
    - a) low end – hazardous chemicals – any quantity reportable  
- environmental sensitive area
    - b) high end – petroleum  
- lower risk

#### **Comments**

- Members did not want thousands of pages of lists and want anything not on exception list to be reported. If you do not know, you have to report even if indoor and impervious, if something like cyanide or chlorine gas has to be reported.
- DOH had list of 900 chemicals and whittled down to 100; now looking at quantities and looking at federal reportable quantities.
- 10lbs RQ is not risk based, MCP is risk-based. Don't want to fall into trap of using easy system that is not risk-based.
- MCP has 5 tiers and federal RQs is easier to sell
- Issue of LSP on every job – may scare small owners away from reporting issue of residential tanks
- Massachusetts handles UST separately – legislative set up insurance program.

### **Agenda Item 6 - Open Discussion**

Members didn't want thousands of pages of lists

- Want anything not on exception list to be reported
- If you don't know you have to report – even if indoor and impervious, if something like cyanide or chlorine gas should be reported

### **Agenda Item 7 - Adjournment**

Next meeting March 11 at 9:30 am.